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7 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

8 ROBERT JAMES STEWART,
9 WES MARTINSON, *et al.*,

NO. CV-05-256-RHW

10 Plaintiffs,

11 v.

12 CHELAN COUNTY DISTRICT
13 COURT, *et al.*,

14 Defendants.

**ORDER GRANTING
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

15 Before the Court are the State Defendants' Motion to File Over Length Brief
16 and Motion for Summary Judgment (Ct. Rec. 179) and the Wenatchee Defendants'
17 Motion for Summary Judgment (Ct. Rec. 199). The motions were heard without
18 oral argument.

19 **BACKGROUND**

20 On August 23, 2005, Plaintiffs filed suit against Adams County; Adams
21 County District Court; Cashmere City Counsel Members; City of Cashmere;
22 Chelan County; Chelan County Commissioners; Chelan County District Court;
23 Chelan County PUD # 1; Chelan County Prosecutor's Officer; Chelan County
24 Sheriff's Office; Chelan County Superior Court; Police Officers for the City of
25 East Wenatchee; Police Officers for the City of Quincy; Police Officers for the
26 City of Wenatchee; Columbia County; Columbia County Sheriff; Douglas County;
27 Douglas County District Court; Douglas County Sheriff's Deputies; Douglas
28 County Superior Court; City of East Wenatchee; Franklin County; Franklin County

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1 District Court; Franklin County Sheriff; Grant County; Grant County District
2 Court; Grant County Superior Court; Lincoln County; Lincoln County Sheriff
3 Deputy; Municipal Court for the City of Quincy; City of Quincy; Walla Walla
4 County; and City of Wenatchee, as well as against individually-named employees
5 of the above-listed entities. On September 19, 2005, the Court granted Plaintiffs
6 leave to file an Amended Complaint. On October 4, 2005, Plaintiff filed an
7 Amended Complaint. On November 21, 2005, the Court ordered Plaintiffs to file a
8 Second Amended Complaint. On April 17, 2005, Plaintiffs filed a Second
9 Amended Complaint.

10 DISCUSSION

11 A. Standard of Review

12 Summary judgment is appropriate if the “pleadings, depositions, answers to
13 interrogatories, and admissions on file, together with the affidavits, if any, show
14 that there is no genuine issue as to any material fact and that the moving party is
15 entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). There is no
16 genuine issue for trial unless there is sufficient evidence favoring the non-moving
17 party for a jury to return a verdict in that party’s favor. *Anderson v. Liberty Lobby,*
18 *Inc.*, 477 U.S. 242, 250 (1986). The moving party had the initial burden of
19 showing the absence of a genuine issue of fact for trial. *Celotex Corp. v. Catrett*,
20 *477 U.S. 317, 325 (1986)*. If the moving party meets its initial burden, the non-
21 moving party must go beyond the pleadings and “set forth specific facts showing
22 that there is a genuine issue for trial. *Id.* at 325; *Anderson*, 477 U.S. at 248.

23 In addition to showing that there are no questions of material fact, the
24 moving party must also show that it is entitled to judgment as a matter of law.
25 *Smith v. University of Washington Law School*, 233 F.3d 1188, 1193 (9th Cir.
26 2000). The moving party is entitled to judgment as a matter of law when the non-
27 moving party fails to make a sufficient showing on an essential element of a claim
28 on which the non-moving party has the burden of proof. *Celotex*, 477 U.S. at 323.

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1 When considering a motion for summary judgment, a court may neither
2 weigh the evidence nor assess credibility; instead, “the evidence of the non-movant
3 is to be believed, and all justifiable inferences are to be drawn in his favor.”
4 *Anderson*, 477 U.S. at 255.

5 **B. The State Defendants’ Motion for Summary Judgment**

6 For the following reasons, the State Defendants’ Motion for Summary
7 Judgment is granted.

8 First, the claims against Gary Weeks, Liz Luce, Fred Stephens, Robyn
9 Arnold-Williams, Bryon Martin, and Steven Morehead are dismissed because
10 Plaintiff has failed to establish that there is a genuine issue of material fact
11 regarding whether these Defendants personally participated in any alleged
12 constitutional violations. *See Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989).

13 Second, the claims against the State of Washington or the State Defendants
14 acting in their official capacity are dismissed because neither the State nor its
15 officials are “persons” subject to suit under § 1983. *Will v. Michigan Dept. of*
16 *State Police*, 491 U.S. 58, 71 (1989).

17 Third, Plaintiffs have failed to establish that there is a genuine issue of
18 material fact regarding whether the State Defendants violated their constitutional
19 rights. *Saucier v. Katz*, 533 U.S. 194, 204 (2001).

20 Fourth, Plaintiffs have failed to establish that there is a genuine issue of
21 material fact that any material interaction between the State Defendants and
22 Plaintiff took place less than three years prior to the filing of this lawsuit. *See*
23 *Owens v. Okure*, 488 U.S. 235, 249-50 (1989) (the limitation period for § 1983
24 claims is determined by the state statute of limitations); Wash. Rev. Code §
25 4.16.080 (3-year statute of limitation for personal injury).

26 Finally, to the extent that Plaintiffs are relitigating claims or issues decided
27 in the state court proceedings, dependency orders, traffic infractions, and workers’
28 compensation decisions, the doctrine of *res judicata* precludes Plaintiff from

1 relitigating these issues in federal court. *Mpoyo v. Litton Electric-Optical Systems*,
2 430 F.3d 985, 987 (9th Cir. 2005) (*Res judicata* applies when “the earlier suit (1)
3 involved the same ‘claim’ or cause of action as the later suit, (2) reached a final
4 judgment on the merits, and (3) involved identical parties or privies.”)

5 **C. Wenatchee Defendant’s Motion for Summary Judgment**

6 For the following reasons, the Wenatchee Defendants’ Motion for Summary
7 Judgment is granted.

8 First, Plaintiffs have failed to establish there is a genuine issue of material
9 fact regarding whether the Wenatchee Defendants participated in any alleged
10 trespass on Plaintiffs’ property.

11 Second, Plaintiffs have failed to establish there is a genuine issue of material
12 fact regarding whether the Wenatchee Defendants falsely arrested or imprisoned
13 any specifically-named Plaintiffs, or that their claims fall within the statute of
14 limitations period. *See* Wash. Rev. Code § 4.16.100 (statute of limitations for
15 action for false imprisonment is two years).

16 Third, the section 1983 claims against Defendant City of Wenatchee are
17 dismissed because Plaintiffs have failed to establish there is a genuine issue of
18 material fact that any alleged constitutional violation was the result of a policy or
19 custom. *See Monell v. Dep’t of Soc. Serv.*, 436 U.S. 658 (1978).

20 Fourth, Plaintiffs have failed to establish there is a genuine issue of material
21 fact regarding whether the Wenatchee Defendants violated their constitutional
22 rights. *Katz*, 533 U.S. at 202.

23 **D. Supplemental Jurisdiction**

24 Because the Court concludes that Plaintiffs have failed to establish that a
25 genuine issue of material exists regarding whether the state Defendants or the
26 Wenatchee Defendants violated their constitutional rights, the Court declines to
27 exercise its supplemental jurisdiction over any remaining state claims. *See* 28
28 U.S.C. § 1367(c); *see also Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n.7

1 (1988) (“in the usual case in which all federal-law claims are eliminated before
2 trial, the balance of factors to be considered under the pendent jurisdiction
3 doctrine— judicial economy, convenience, fairness, and comity—will point toward
4 declining to exercise jurisdiction over the remaining state-law claims.”); *United*
5 *Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 726 (1966).

6 Accordingly, **IT IS HEREBY ORDERED:**

7 1. The State Defendants’ Motion to File Over Length Brief and Motion
8 for Summary Judgment (Ct. Rec. 179) is **GRANTED**. The following Defendants
9 are dismissed from the above-captioned case: Tim Abbey, Robyn Arnold-
10 Williams, Kate Carrow, Kate Carrol, Brent Dearing, Larry Lesmeister, Liz Luce,
11 Bryon Martin, Steven Moorehead, John Doe (“Jim”) Moser, Davis Richmond, Fred
12 Stephens, Michael Walcker, and Gary Weeks.

13 2. The Wenatchee Defendants’ Motion for Summary Judgment (Ct. Rec.
14 199) is **GRANTED**. The following Defendants are dismissed from the above-
15 captioned case: City of Wenatchee and City Police Officers of City of Wentachee.

16 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
17 Order and forward copies to counsel and Plaintiffs.

18 **DATED** this 5th day of January, 2007.

19 *s/ Robert H. Whaley*

20 ROBERT H. WHALEY
21 Chief United States District Judge
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